Audit of Forest Practices and Planning
Okanagan Indian Band
Non-Replaceable Forest Licence A73213

Audit Report

FPB/ARC/68

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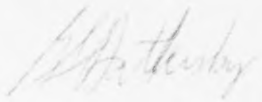
Forest Practices Board Commentary

This is the Board's report on a compliance audit of non-replaceable forest licence A73213, held by the Okanagan Indian Band. The licence permits the salvage of burned timber from the Cedar Hill fire near Falkland and the Okanagan Mountain Park fire near Kelowna (see map on page 2). The fires lie within the Okanagan timber supply area.

Time is of the essence when salvaging timber from wildfires, as burned and dead timber can deteriorate quickly and lose its value. The Okanagan Indian Band and its contractors moved quickly to take advantage of the opportunity to harvest wildfire-damaged timber while still complying with legislative requirements in all significant respects for planning and forest practices. Government also played a key role in expediting the process and providing timely direction, including visual management considerations for fire salvage and harvest planning guidance for fire salvage.



Geoff Battersby
Vice-Chair, Forest Practices Board

January 4, 2005

Audit of
Okanagan Indian Band
NRFL A73213

Detailed Audit Findings

Background

As part of the Forest Practices Board's 2004 compliance audit program, the Board selected non-replaceable forest licence A73213[1] for audit. The license, held by the Okanagan Indian Band (OIB), based in Vernon, BC, was selected randomly and not on the basis of past performance. Additional information on the compliance audit process is provided in Appendix A.

In December 2003, the Minister of Forests invited OIB to apply for a non-replaceable forest licence to harvest fire-damaged timber from the Okanagan Mountain Park fire near Kelowna and the Cedar Hill fire near Falkland. These fires burned in the summer and fall of 2003. The forest licence permitted the harvest of up to 100,000 cubic metres of timber over a three-year period.

OIB was awarded the licence and prepared a forest development plan[2] (FDP) for the Cedar Hill fire and a major amendment to an existing FDP for the Okanagan Mountain Park fire. The plans were prepared in accordance with the expedited major salvage provisions of the *Forest Practices Code of BC Act* (the Code). This meant the public review and comment period was shortened to 10 days from the usual 60 days. The Okanagan Mountain Park fire major amendment was approved in December 2003 and the Cedar Hill FDP was approved in February 2004. Harvesting began soon after the plans were approved, and OIB contracted two different companies to build road and harvest the cutblocks on the two fires.

The Board's audit fieldwork took place during the week of July 26, 2004. Harvesting was nearly complete on the Cedar Hill fire and harvesting was complete on the Okanagan Mountain Park fire.

Higher Level Plans

The Okanagan Shuswap Land and Resource Management Plan (LRMP) was approved by government in January 2001. The forest licence lies within the LRMP planning area. The LRMP has not been declared a higher level plan[3] by government, so the licensee does not have to comply with it. However, both FDPs commit to following the intent of the LRMP.

Not all of the objectives of the LRMP can be met due to the nature of fire salvage activities. For example, one objective of the LRMP is to maintain naturally appearing landscapes and visual quality in the visual quality resource management zone. The fact that an area has been severely burned limits opportunities for visual management.

Audit Approach and Scope

The audit examined OIB's planning, field activities and obligations in the areas of: operational planning (including forest development plans and site plans[4]); timber harvesting; road construction, maintenance and deactivation; silviculture; and fire protection. These activities were assessed for compliance with the Code and the *Forest and Range Practices Act*[5] (FRPA).

The scope of the audit extended to all activities, planning and obligations that occurred between the day the Minister of Forests invited OIB to apply for a license and the start of audit fieldwork. Specifically, the audit period was December 4, 2003, to July 25, 2004.

The Board's audit reference manual, *Compliance Audit Reference Manual, Version 6.0, May 2003* and the addendum to the manual for the 2004 audit season set out the standards and procedures that were used to carry out this audit.

Planning and Practices Examined

Activities for the Cedar Hill fire area were planned and approved under the *Forest Licence #A73213 forest development plan Jan 1, 2004 to December 31, 2005*. For the Okanagan Mountain Park fire area, the company employed by OIB to harvest the timber already operated in the vicinity, and simply amended its existing FDP to include the cutblocks and roads in the area to be salvaged. Activities in the Okanagan Mountain Park fire area were planned and approved under a *Major Amendment to 2002 forest development plan for FL A18672 – CP 800 and CP 810.* In addition to the Cedar Hill FDP and the major amendment for the Okanagan Mountain Park area, the Board audited 20 site plans.

5 cutblocks were harvested on the Cedar Hill fire and 15 cutblocks were harvested from the Okanagan Mountain Park fire under the forest licence. The Board audited all 20 cutblocks.

To access burned timber, the licensee constructed new roads and also used existing roads where possible. OIB entered into road-use agreements with a major licensee and a road-maintenance agreement with a woodlot licensee to use certain pre-existing roads. OIB built 8.399 kilometres of road, maintained 11.987 kilometres of road and deactivated 6.829 kilometres of road during the audit period. The Board audited 8.075 kilometres of road construction, all of the road maintenance and 5.710 kilometres of road deactivation.

As harvesting had only been completed recently on the Okanagan Mountain Park fire and was still underway on the Cedar Hill fire, no silvicultural activities such as tree planting had taken place. As a result, the Board was unable to audit silvicultural activities and obligations.

Fire preparedness and practices were also audited. Auditors perform fire tool inspections when they find equipment in use during an audit to ensure the required fire-fighting tools are present. During the course of this audit, there was one worksite with equipment in use - to deactivate road on the Okanagan Mountain Park fire - and it was inspected. Licensees are also responsible for preparing fire-preparedness plans in certain circumstances when operating

during the fire season. Two fire-preparedness plans were in place for the two operating areas and they were both audited.

Audit Opinion

In my opinion, the operational planning; timber harvesting; road construction, maintenance and deactivation; and fire protection planning and activities carried out by OIB on non-replaceable forest licence A73213 complied in all significant respects with the requirements of the Code and FRPA as of July 2004. No opinion is provided regarding silviculture activities.

In reference to compliance, the term 'in all significant respects' recognizes that there may be minor instances of non-compliance that either may not be detected by the audit, or that are detected but not considered worthy of inclusion in the audit report.

The Audit Approach and Scope and the Planning and Practices Examined sections of this report describe the basis of the audit work performed in reaching the above conclusion. The audit was conducted in accordance with the auditing standards of the Forest Practices Board. Such an audit includes examining sufficient forest planning and practices to support an overall evaluation of compliance with the Code and FRPA.

C R Mosher

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January 4, 2005

[1] A licence to cut crown timber that is not renewable. In this case, the license permitted 100,000 cubic metres to be harvested over a three-year period.

[2] A forest development plan is an operational plan that provides the public and government agencies with information about the location of proposed roads and cutblocks for harvesting timber over a period of at least five years. The plan must specify measures that will be carried out to protect certain forest resources prescribed by regulation. It must also be consistent with any higher level plans. Site-specific plans are required to be consistent with the forest development plan.

[3] A higher level plan is a forest resource management objective that is established as legally binding by a written order. The objective applies to a resource management zone, landscape unit, sensitive area, recreation site, recreation trail, or interpretive forest site.

[4] A site plan is a site-specific plan that is required in place of a silviculture prescription as of December 17, 2002, except where there is already an existing silviculture prescription. The site plan contains many of the same elements as a silviculture prescription and is designed to identify resource values and define what a free-growing stand will be on that site. However, it is not an operational plan under the Code and does not require review or approval by government to be implemented.

[5] Most of the Code was repealed on January 31, 2004 and replaced with FRPA. The transitional provisions of FRPA state that the Code continues to apply to forest practices carried out under a forest development plan. This continues until there is an approved forest stewardship plan, at which point, the requirements of FRPA apply. Therefore, although FRPA came into effect during the audit period, the legislated forest practices requirements that applied to the auditee were the requirements of the Code.

Appendix A:
Forest Practices Board Compliance Audit Process

Background

The Forest Practices Board conducts audits of government and agreement-holders for compliance with FRPA. The Board has the authority to conduct these periodic independent audits under section 122(1) of FRPA. Compliance audits examine forest planning and practices to determine whether or not they meet FRPA requirements.

Most of the Code was repealed on January 31, 2004 and replaced with FRPA. The transitional provisions of FRPA state that the Code continues to apply to forest practices carried out under an FDP. This continues until there is an approved forest stewardship plan, at which point, the requirements of FRPA apply. Therefore, although FRPA came into effect during the audit period, the legislated forest practices requirements were the requirements of the Code.

The Board can undertake 'limited scope' or 'full scope' compliance audits. A 'limited scope' audit examines selected forest practices (e.g., road construction, maintenance and deactivation; timber harvesting; or silviculture) and the related operational planning activities. A 'full scope' audit examines all operational planning activities and forest practices.

The Board determines how many audits it will conduct in a year, and the type of audits (limited/full scope, or thematic), based on resources and other considerations. The Board audits agreement holders who have forest licences or other tenures under the *Forest Act* or the *Range Act*. The Board also audits government's British Columbia Timber Sales (BCTS) program, which is administered by Timber Sales Regional offices. Selection of areas to be audited and agreement-holders and BCTS for audit is made randomly, using a computer program to ensure a fair, unbiased selection.

Increasingly, licensees' are obtaining certification of their operational planning activities and forest practices under one or more certification programs[1]. Certification by these programs is generally intended to assure customers and markets that forests are being managed sustainably and in an environmentally sound manner, while Board audits are intended to assure the public landowners that forest practices are being conducted in accordance with the previous Code and the current FRPA. Recognizing that forest certification involves some processes and objectives similar to the Board's, the Board's approach, where feasible, is to utilize work undertaken by companies under the various certification programs (certification generally includes an option

[1] A number of international organisations have established unique programs, including standards of practice, to certify and monitor forest industry performance in the area of forest sustainability and environmental protection. These organizations include Canadian Standards Association (CSA), Forestry Stewardship Council (FSC), International Organization for Standardization (ISO 14001), and the Sustainable Forestry Initiative (SFI).

for companies to voluntarily undergo third-party verification audits) to reduce the level of audit work associated with a Board compliance audit, while maintaining its high audit standards. Where warranted, the Board expects that its auditors can reduce the level of field testing on those licensees that are certified, thereby minimizing duplication of audit work performed while still serving the public interest.

Audit Standards

Audits by the Forest Practices Board are conducted in accordance with the auditing standards developed by the Board. These standards are consistent with generally accepted auditing standards.

The audits determine compliance with the Code and FRPA based on criteria derived from the *Forest Practices Code of British Columbia Act* and its related regulations and FRPA and its related regulations. Audit criteria are established for the evaluation or measurement of each practice regulated by the Code and FRPA. The criteria reflect judgments about the level of performance that constitutes compliance with each requirement

The standards and procedures for compliance audits are described in the Board's *Compliance Audit Reference Manual*.

Audit Process

Conducting the Audit

Once the Board selects an audit and decides on its scope ('limited scope' or 'full scope') and/or area, the audit period and the staff and resources required to conduct the audit are determined. Board staff meet with the parties being audited to discuss logistics before commencing the work.

All the activities carried out during the period subject to audit are identified; for example, harvesting or replanting sites and constructing or deactivating road sections. The items that make up each forest activity are referred to as a 'population'. For example, all sites harvested form the 'timber harvesting population'. All road sections constructed form the 'road construction population'. The populations are then sub-divided based on factors such as characteristics of the sites and potential severity of the consequences of non-compliance on the sites.

For each population, the auditors choose the most efficient means of obtaining information to conclude whether there is compliance with legislated requirements. For efficiency, auditors usually rely upon sampling to obtain audit evidence, rather than inspecting all activities. Individual sites and forest practices within each population have different characteristics, such as the type of terrain or type of yarding. Each population is divided into distinct subpopulations on the basis of common characteristics (e.g., steep ground versus flat ground).

A separate sample is selected for each population (e.g., the cutblocks selected for auditing timber harvesting). Within each population, more audit effort (i.e., more audit sampling) is allocated to the sub-population where the risk of non-compliance is greater.

Audit work in the field includes assessments from the air using helicopters and ground procedures, such as measuring specific features like road or riparian reserve zone width. The audit teams generally spend one to two weeks in the field.

In determining the level of field testing necessary for audits of certified companies, Board auditors examine and perform tests of a certified company's systems and procedures related to achieving Code and FRPA compliance, as well as the specific audit tests carried out by certification auditors, if it is cost effective to do so. This helps the auditors gain an understanding of the requirements of the applicable certification program, and any verification audit(s) undergone by the company, in relation to legislated requirements. This entails visiting both the company and the company's external verification auditor's offices to review and test certification systems and the audit(s) thereof. Field testing is then carried out, generally with smaller sample sizes than in audits of non-certified companies.

Thus, the Board's approach, rather than assume that all certification programs achieve the public interest, is to focus on an evaluation of the selected licensees' management controls to achieve compliance with legislated requirements, including an examination of the audit work conducted by the independent certification auditors in determining whether the licensee's procedures for achieving Code and FRPA compliance conformed with the required certification standards. This testing provides assurance that the certification audit work meets the Board's audit standards, and that a company's certification systems adequately address Code and FRPA requirements.

If, however, this testing determines that the rigour of the certification audit process is not sufficient, or that certification systems do not adequately address legislated requirements, then the licensee is audited by the Board in the same manner as licensees who are not certified.

Evaluating the Results

The Board recognizes that compliance with the many requirements of the Code and FRPA is more a matter of degree than absolute adherence. Determining compliance, and assessing the significance of non-compliance, requires the exercise of professional judgment within the direction provided by the Board

Auditors collect, analyze, interpret and document information to determine the audit results. The audit team, composed of professionals and technical experts, first determines whether forest practices comply with legislated requirements. For those practices considered to not be in compliance, the audit team then evaluates the degree to which the practices are judged not in compliance. The significance of the non-compliance is determined based on a number of criteria, including the magnitude of the event, the frequency of its occurrence and the severity of the consequences.

As part of the assessment process, auditors categorize their findings into the following levels of compliance:

Compliance–where the auditor finds that practices meet Code and FRPA requirements.

Not significant non-compliance–where the auditor, upon reaching a non-compliance conclusion, determines that a non-compliance event, or the accumulation and consequences of a number of non-compliance events, is not significant and is not considered worthy of reporting.

Significant non-compliance–where the auditor determines that the event or condition, or the accumulation and consequences of a number of non-compliance events or conditions, is or has the potential to be significant, and is considered worthy of reporting.

Significant breach–where the auditor finds that significant harm has occurred, or is beginning to occur, to persons or the environment as a result of the non-compliance. A significant breach can also result from the cumulative effect of a number of non-compliance events or conditions

Identification of a possible significant breach requires the auditor to conduct tests to confirm whether or not there has been a breach. If it is determined that a significant breach has occurred, the auditor is required by the *Forest Practices Board Regulation* to immediately advise the Board, the party being audited, and the Minister of Forests.

Reporting

Based on the above evaluation, the auditor then prepares the audit report for submission to the Board. The party being audited is given a draft of the report before it is submitted to the Board so that the party is fully aware of the findings. The auditee is also kept fully informed of the audit findings throughout the process, and is given opportunities to provide additional relevant information and to ensure the auditor has complete and correct information.

Once the auditor submits the report, the Board reviews it and determines if the audit findings may adversely affect any party or person. If so, the party or person must be given an opportunity to make representations before the Board decides the matter and issues a final report to the public and government. The representations allow parties that may potentially be adversely affected to present their views to the Board.

At the discretion of the Board, representations may be written or oral. The Board will generally decide on written representations, unless the circumstances strongly support the need for an oral hearing.

The Board then reviews the report from the auditor and the representations from parties that may potentially be adversely affected before preparing its final report, which includes the Board's conclusions and, if appropriate, recommendations.

If the Board's conclusions or recommendations result in newly adversely-affected parties or persons, additional offers of representations would be required.

Once the representations have been completed, the report is finalized and released: first to the auditee and then to the public and government.